

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BOEHRINGER INGELHEIM INTERNATIONAL )  
GMBH and BOEHRINGER INGELHEIM )  
PHARMACEUTICALS, INC., )

Plaintiffs,

V.

BARR LABORATORIES, INC.,

Defendant.

C.A. No. 05-700-JJF  
CONSOLIDATED

BOEHRINGER INGELHEIM INTERNATIONAL )  
GMBH and BOEHRINGER INGELHEIM )  
PHARMACEUTICALS, INC., )

Plaintiffs,

V.

MYLAN PHARMACEUTICALS, INC.,

Defendant.

C.A. No. 05-854-JJF

## **FINAL JUDGMENT ORDER**

WHEREAS, in consolidated actions (Civil Action No. 05-700-(JJF) and Civil Action No. 05-854-(JJF)), Plaintiffs Boehringer Ingelheim International GmbH and Boehringer Ingelheim Pharmaceuticals, Inc. (“Boehringer”) asserted that:

(1) Defendant Barr Laboratories, Inc.’s Abbreviated New Drug Application (“ANDA”) No. 77-724 for generic pramipexole dihydrochloride tablets infringed certain claims of U.S. Patent No.

4,843,086 (“the ‘086 patent”) and U.S. Patent No. 4,886,812 (“the ‘812 patent”); and

(2) Defendant Mylan Pharmaceuticals Inc.'s ANDA No. 77-854 for generic pramipexole dihydrochloride tablets infringed certain claims of the '812 patent;

WHEREAS the '086 patent expired on June 27, 2006;

WHEREAS Defendant Barr Laboratories, Inc.'s counterclaim that the '812 patent is unenforceable was dismissed per stipulation of the parties on November 5, 2007 (D.I. 177);

WHEREAS these consolidated actions having come to trial in March 2008 before this Court, the Honorable Joseph J. Farnan, Jr., District Judge, presiding, and the remaining issues having been tried, and the Court having issued its Memorandum Opinion on June 26, 2008; and

WHEREAS Boehringer and Defendant Barr Laboratories, Inc. have agreed to settle Civil Action No. 05-700 (JJF) and have filed a Stipulation And Order Of Dismissal (D.I. 258);

NOW THEREFORE, IT IS ORDERED AND ADJUDGED for the reasons set forth in the Court's Memorandum Opinion dated June 26, 2008, that:

1. Claims 3, 4, 5, 7, 9 and 10 of the '812 patent are invalid on the ground of nonstatutory double patenting;
2. Judgment is entered in favor of Defendant Mylan Pharmaceuticals Inc. ("Mylan") and against Boehringer on Mylan's counterclaim that Claims 3, 4, 5, 7, 9 and 10 of the '812 patent are invalid on the ground of nonstatutory double patenting; and
3. Judgment is entered in favor of Mylan and against Boehringer on Boehringer's claims of infringement and Mylan's counterclaim of noninfringement because Claims 5, 7, 9 and 10 of the '812 patent, the claims asserted by Boehringer, are invalid on the ground of nonstatutory double patenting.

SO ORDERED this \_\_\_\_\_ day of August, 2008.

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The Honorable Joseph J. Farnan, Jr.  
United States District Judge